



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

February 4, 2010

CBCA 1717-RELO

In the Matter of HARVEY W. THARPS

Harvey W. Tharps, Renton, WA, Claimant.

Brendan A. Kelly, Office of Regional Counsel, Federal Aviation Administration,
Department of Transportation, Jamaica, NY, appearing for Department of Transportation.

GOODMAN, Board Judge.

Claimant is an employee of the Federal Aviation Administration. He has asked this Board to review the agency's denial of his claim resulting from permanent change of station (PCS) orders that were subsequently rescinded.

Factual Background

On February 27, 2009, claimant was offered a position in Frankfurt, Germany. At that time he was a federal employee living in the state of Washington. On April 13, 2009, his household goods (HHG) were shipped to Germany. The original travel orders authorized ninety days of subsistence expenses while occupying temporary quarters. On May 14, 2009, the agency rescinded claimant's travel orders and he was directed to remain in his current position. The reasons for rescission stated by the agency in the rescission letter to claimant are personal to claimant and were within his control. Claimant has not challenged or rebutted the agency's characterization of the reasons for rescission.

The rescission letter also stated:

Your PCS orders will be amended to authorize up to 45 days of temporary quarters and M&IE [meals and incidental expenses] from the time your

household goods are returned by surface ship to Seattle, WA. You will be notified when your household goods return. . . .

Please acknowledge receipt of this job offer withdrawal by signing and dating below and returning to your supervisor.

The amended travel orders authorized a total 120 days of temporary quarters subsistence allowance (TQSE) through July 25, 2009, at his current duty station because his HHG had been shipped to Germany. There was no authorization to pay temporary storage once the HHG returned to the United States.

Because the shipping line was awaiting cargo that would fill a container, his HHG were not returned from Germany until September 29, 2009. He requested that the agency grant him additional TQSE and M&IE from July 25, 2009, until forty-five days after his HHG were returned from Germany.

The agency denied his request for additional TQSE and M&IE, stating that he had received the maximum allowed by law and regulation.

In an additional submission to the Board, claimant also requested repayment of the cost of storage of his HHG upon arrival from Germany and reinstatement of eighteen hours of compensation time he used to receive his HHG on November 24 and 25, 2009.

Discussion

Claimant was issued PCS orders which were subsequently rescinded for reasons within the control of claimant.

Applicable regulations allow the agency to grant a total period of time in temporary quarters not to exceed 120 days. Claimant was ultimately granted 120 days of TQSE as he was awaiting the return of his HHG from Germany, where they had been shipped before his PSC orders were rescinded. The total period of authorized TQSE shall under no circumstances extend beyond 120 days. Accordingly, claimant is not entitled to additional TQSE or M&IE. Federal Aviation Administration Travel Policy (FAATP) § 302-22.104.

The travel orders did not authorize payment of temporary storage when the HHG returned to the United States, and claimant is not entitled to be reimbursed for temporary storage.

This Board does not have jurisdiction over claimant's claim for reinstatement of eighteen hours of compensation time he allegedly used to receive his HHG when the HHG was returned, as such a claim involves an employee's "compensation and leave" and is therefore within the purview of the Director of the Office of Personnel Management (OPM). 31 U.S.C. § 3702(a)(2) (2006); *Stanley J. Cieslewicz*, CBCA 1746-TRAV, 09-2 BCA ¶ 34,294. This portion of the claim is dismissed and transferred to OPM for resolution.

Decision

The claims for additional TQSE, M&IE, and temporary storage are denied. The claim for reinstatement of compensation time is dismissed and transferred to OPM.

ALLAN H. GOODMAN
Board Judge